

**ASSEMBLY BILL**

**No. 245**

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**Introduced by Assembly Members Gomez, Reyes, Santiago, and  
Cristina Garcia**

January 30, 2017

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An act to amend Section 25205 of, and to add Sections 25187.3 and 25200.1.3 to, the Health and Safety Code, relating to hazardous waste facilities.

LEGISLATIVE COUNSEL'S DIGEST

AB 245, as introduced, Gomez. Hazardous waste: facilities.

(1) Existing law, as part of the hazardous waste control law, requires a facility handling hazardous waste to obtain a hazardous waste facilities permit from the Department of Toxic Substances Control. Existing law requires the department to impose certain conditions on each hazardous waste facilities permit and authorizes the department to impose other conditions on a hazardous waste facilities permit, as specified. A violation of the hazardous waste control law is a crime.

This bill would require the department, within 90 days of receiving a renewal application for a hazardous waste facilities permit, to hold a public meeting for specified purposes relating to the renewal in or near the community in which the hazardous waste facility is located.

Existing law prohibits the department from issuing or renewing a permit to operate a hazardous waste facility unless the owner or operator of the facility establishes and maintains financial assurances.

This bill would require the department to review the financial assurances required to operate a hazardous waste facility at least once every 5 years. If the department's review finds the financial assurances for a facility to be inadequate, the bill would require the department to

notify the owner or operator of the facility and would require the owner or operator to update and adopt adequate financial assurances within 90 days.

(2) Existing law requires the department, in the case of a release of hazardous waste or constituents into the environment from a hazardous waste facility that is required to obtain a permit, to pursue available remedies, including the issuance of an order for corrective action, before using available legal remedies, except in specified circumstances.

This bill would require the department, under specified circumstances, to request an owner or operator of a hazardous waste facility to submit to the department for review and approval a written cost estimate to cover activities associated with a corrective action based on available data, history of releases, and site activities, as specified. The bill would require the owner or operator to submit the corrective action cost estimate within 60 days of the department's request. The bill would require the owner or operator, within 90 days of the approval or the imposition of a corrective action cost estimate, as specified, to fund the cost estimate or enter into a schedule of compliance for assurances of financial responsibility for completing the corrective action.

(3) Because a violation of the bill's requirements would be a crime, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 25187.3 is added to the Health and Safety
- 2 Code, to read:
- 3 25187.3. (a) After the department has identified a release or
- 4 releases of a hazardous waste or a hazardous waste constituent
- 5 into the environment from a hazardous waste facility or when the
- 6 department determines that corrective action is necessary, the
- 7 department shall request an owner or operator of a hazardous waste
- 8 facility to submit to the department for review and approval a
- 9 written cost estimate to cover activities associated with corrective

1 action based on available data, history of releases, and site  
2 activities.

3 (b) The corrective action cost estimate shall be based on, and  
4 be no less stringent than, the ASTM International (ASTM) Standard  
5 E2150-13.

6 (c) (1) The owner or operator of a hazardous waste facility shall  
7 submit the corrective action cost estimate to the department within  
8 60 days from the department's request.

9 (2) If the department determines the corrective action cost  
10 estimate is substantially incomplete or includes substantially  
11 unsatisfactory information, the department shall provide a notice  
12 of deficiency to the owner or operator of the facility within 60  
13 days of receipt of the corrective action cost estimate.

14 (3) The owner or operator of the facility shall submit a revised  
15 corrective action cost estimate based on the information provided  
16 in the notice of deficiency within 30 days.

17 (4) The department shall approve or deny the revised corrective  
18 action cost estimate within 30 days.

19 (5) If the corrective action cost estimate does not address the  
20 information provided in the notice of deficiency, as determined  
21 by the department, the department shall deny the revised corrective  
22 action cost estimate and shall, within 60 days, develop its own  
23 corrective action cost estimate that will be the approved estimate  
24 for the facility.

25 (d) The owner or operator of a facility, within 90 days of the  
26 approval of a corrective action cost estimate, shall fund the  
27 approved corrective action cost estimate or shall enter into a  
28 schedule of compliance for assurances of financial responsibility  
29 for completing the corrective action.

30 (e) If the department determines that the timing or content of a  
31 submission of a cost estimate and financial assurance documents  
32 are not consistent with the degree and duration of risk posed by  
33 the release or releases to be addressed by the corrective action  
34 activities, the department shall adjust the level of financial  
35 assurance or timing of document submission required by this  
36 section as may be necessary to protect human health and the  
37 environment.

38 (f) If the owner or operator of a hazardous waste facility is  
39 required to submit a financial assurance mechanism for corrective  
40 action, the financial assurance shall be in the form of a trust fund,

1 surety bond, letter of credit, insurance, or any other mechanism  
2 authorized under the federal act and the regulations adopted by  
3 the department for financial assurance mechanisms.

4 (g) The department may adopt, and revise, when appropriate,  
5 standards and regulations to implement this section. Additionally,  
6 the department may adopt emergency regulations in accordance  
7 with Chapter 3.5 (commencing with Section 11340) of Part 1 of  
8 Division 3 of Title 2 of the Government Code, to implement this  
9 section. The adoption of these regulations shall be deemed an  
10 emergency and necessary for the immediate preservation of the  
11 public peace, health and safety, or general welfare for purposes of  
12 Sections 11346.1 and 11349.6 of the Government Code.

13 SEC. 2. Section 25200.1.3 is added to the Health and Safety  
14 Code, to read:

15 25200.1.3. The department shall, within 90 days of receiving  
16 a renewal application for a hazardous waste facilities permit, hold  
17 a public meeting in or near the community in which the hazardous  
18 waste facility is located in order to inform the public of the  
19 submission of the renewal application, the process for reviewing  
20 and making a decision on the renewal application, how the public  
21 can participate in the process, and the facility's enforcement  
22 history.

23 SEC. 3. Section 25205 of the Health and Safety Code is  
24 amended to read:

25 25205. (a) Except as provided in Section ~~25245.5~~, 25245.4,  
26 the department shall not issue or renew a permit to operate a  
27 hazardous waste facility unless the owner or operator of the facility  
28 establishes and maintains the financial assurances required pursuant  
29 to Article 12 (commencing with Section 25245).

30 (b) The grant of interim status of a facility, or any portion  
31 thereof, that is operating under a grant of interim status pursuant  
32 to Section 25200.5, based on the facility having been in existence  
33 on November 19, 1980, shall terminate on July 1, 1997, unless the  
34 department certifies, on or before July 1, 1997, that the facility is  
35 in compliance with the financial assurance requirements of Article  
36 12 (commencing with Section 25245) for a facility in operation  
37 since November 19, 1980, for all units, tanks, and equipment for  
38 which the facility has authorization to operate pursuant to its grant  
39 of interim status.

1     (c) *The department shall review the financial assurances*  
2     *required to operate a hazardous waste facility at least once every*  
3     *five years. If the department's review finds the financial assurances*  
4     *for a facility to be inadequate, the department shall notify the*  
5     *owner or operator of the facility and require the owner or operator*  
6     *to update and adopt adequate financial assurances within 90 days.*

7     SEC. 4. No reimbursement is required by this act pursuant to  
8     Section 6 of Article XIII B of the California Constitution because  
9     the only costs that may be incurred by a local agency or school  
10    district will be incurred because this act creates a new crime or  
11    infraction, eliminates a crime or infraction, or changes the penalty  
12    for a crime or infraction, within the meaning of Section 17556 of  
13    the Government Code, or changes the definition of a crime within  
14    the meaning of Section 6 of Article XIII B of the California  
15    Constitution.